

Sample Independent Generator Owner Application and Tariff

This example assumes that the filing entity owns a small generator but is not affiliated with a transmission owning utility or an electric utility affiliate with a franchised service territory. This example includes the following elements.

- Cover letter
- Petition for acceptance of initial rate filing
- FERC Electric Tariff, Original Volume No. 1

<EXAMPLE OF COVER LETTER>

(current date)

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St. NE
Washington, D.C. 20426

Re: XYZ Small Gen, Inc.
Docket No. ER06-____-000

Dear Ms. Salas:

Enclosed for filing are an original and six copies of the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, submitted by XYZ Small Gen, Inc. (XYZ). XYZ hereby requests acceptance of FERC Electric Tariff, Original Volume No. 1, under which it will engage in wholesale electric power and energy transactions and the grant of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission regulations.

Sincerely,

Cynthia F. Kilowatt
Vice President
XYZ Small Gen, Inc.
Suite 9000
1111 Half Street, N.W.
Washington, D.C. 20426-0000

Ph: (202) 502-XXXX

Enclosure

**<EXAMPLE OF PETITION FOR ACCEPTANCE OF INITIAL RATE
FILING EXPANDED FOR OTHER OPTIONS>**

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

XYZ Small Gen, Inc. Docket No. ER06-____-000

**PETITION FOR ACCEPTANCE OF INITIAL TARIFF,
WAIVERS AND BLANKET AUTHORITY**

Pursuant to section 205 of the Federal Power Act (FPA) 16 U.S.C. § 824d (2000), Rule 205 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 C.F.R. § 385.205 (2005) and 18 C.F.R. § 385.207 (2005), and Part 35 of the Commission's regulations, 18 C.F.R. Part 35 (2005), XYZ Small Gen, Inc. (XYZ) hereby submits for filing FERC Electric Tariff, Original Volume No. 1, under which XYZ will engage in wholesale electric power and energy transactions.

I. COMMUNICATIONS

All communications and service related to this application should be directed to the following:

Cynthia F. Kilowatt
Vice President
XYZ Small Gen, Inc.
Suite 9000
1111 Half Street, N.W.
Washington, D.C. 20426-0000

Ph: (202) 502-XXXX

II. DESCRIPTION OF APPLICANT

XYZ is a Delaware corporation with its principal place of business in Washington, D.C. XYZ is a wholly-owned subsidiary of XYZ Buggy Whips

Manufacturing Corporation. XYZ Buggy Whips is primarily engaged in the manufacture of farm equipment. Other affiliates of XYZ are engaged in the production and distribution of building supplies.

XYZ owns a 101 MW combined cycle generator located in the Large Utility, Inc. control area. All transactions between XYZ and its purchasers and sellers will be pursuant to XYZ's proposed market-based rate tariff.

XYZ also respectfully requests authorization to sell the ancillary services the Commission has authorized utilities with market-based rate authority to sell in the markets operated by PJM Interconnection, L.L.C. (PJM), New York Independent System Operator (NYISO), ISO New England, Inc. (ISO-NE), and California Independent System Operator Corporation (CAISO).¹ In accordance with the Commission's requirements, XYZ has listed in its tariff the specific ancillary services it may sell in such markets.²

XYZ's tariff further provides for the reassignment of transmission capacity to third parties that it has reserved for its own use, as well as the resale of firm transmission rights in accordance with Commission precedent.³

III. REQUEST FOR BLANKET AUTHORIZATION TO PURCHASE AND RESELL ELECTRICITY AT MARKET-BASED RATES

¹ *Atlantic City Electric Co.*, 86 FERC ¶ 61,248 (1999); *PJM Interconnection, L.L.C.*, 91 FERC ¶ 61,021(2002) (granting market-based rate authorization for specified ancillary services in the PJM market); *Central Hudson Gas & Electric Corp.*, 86 FERC ¶ 61,062, *order on reh'g*, 88 FERC ¶ 61,138 (1999) (granting market-based rate authorization for specified ancillary services in markets administered by the NYISO); *New England Power Pool*, 85 FERC ¶ 61,379 (1998), *reh'g denied*, 95 FERC ¶ 61,074 (2001) (granting market-based rate authorization for specified ancillary services in markets administered by the ISO-NE); *AES Redondo Beach, L.L.C.*, 83 FERC ¶ 61,358, *order on reh'g*, 85 FERC ¶ 61,123 (1998), *order on reh'g*, 87 FERC ¶ 61,208, *order on reh'g*, 88 FERC ¶ 61,096 (1999), *order on reh'g and clarification* 90 FERC ¶ 61,036 (granting market-based rate authorization for specified ancillary services in markets administered by the California ISO).

² *See, e.g., Minergy Neenah L.L.C.*, 88 FERC ¶ 61,102 at 61,242 (1999).

³ *See, e.g., Southwestern Public Service Co.*, 80 FERC ¶ 61,245 (1997); *California Independent System Operator Corp.*, 89 FERC ¶ 61,153 (1999), *order on reh'g*, 94 FERC ¶ 61,143 (2001).

XYZ requests authorization to sell electricity at market-based rates pursuant to the attached FERC Electric Tariff, Original Volume No. 1. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.

A. Generation Market Power

In its order issued in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 order), *order on reh'g*, 108 FERC ¶ 61,026 (2004), the Commission adopted two indicative screens for assessing generation market power.

(Note that there are several ways the applicants can address the Commission's generation market power concerns. Applicants may utilize one or more of the following approaches.)

The Commission's generation market power screens are described in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 Order), *order on reh'g*, 108 FERC ¶ 61,026 (2004). When performing these screens, applicants can rely on data in screens in other utilities' filings except where the Commission has not accepted that utilities filing or where the Commission has determined that the other utility's filing is not consistent with the April 14 Order. Applicants should submit all work papers associated with performing the screens.

Also note that applicants can submit streamlined applications. For example, if an applicant's entire capacity is committed under long-term contract (one year or more) and that applicant's affiliates do not own generation, then neither the applicant nor its affiliate have any uncommitted capacity. Based on this, the applicant passes the Commission's generation market power screens. An applicant can use simplifying assumptions as long as it provides sufficient support for its assumptions. *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 at P 186 (2004).

Lastly, if an applicant's generation facility was constructed after July 9, 1996 and the applicant is not affiliated with any entities that own or control generation facilities in the same control area, the applicant may be exempt from the generation market power screens pursuant to 18 C.F.R. § 35.27(a) (2005).

An entity that files screens must provide all relevant work papers supporting those screens as required in Appendix G of the April 14th Order. Those work papers should be clear and support the statements in the filing.

B. Transmission

Neither XYZ nor any of its affiliates owns or controls transmission facilities. Accordingly, XYZ satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

C. Other Barriers to Entry

Neither XYZ nor any of its affiliates owns or controls any sites for the construction of new generating capacity, intrastate natural gas transportation or storage facilities, or other essential resources or inputs that could be used to erect barriers to entry. Accordingly, XYZ cannot erect barriers to entry.

D. Affiliate Abuse

The Commission has stated its concern that a franchised utility and an affiliate may be able to transact in ways that transfer benefits from the captive customers of the franchised utility to the affiliate and its shareholders. Neither XYZ nor any of its affiliates has a franchised service territory for the sale of electricity. Accordingly, no affiliate abuse concerns exist.

IV. REQUEST FOR WAIVERS AND ADDITIONAL BLANKET AUTHORITY

XYZ requests waiver from the following Commission regulations, which have been granted to other power marketers:

- 1) Subparts B and C of Part 35, regarding the filing of rate schedules, except sections 35.12(a), 35.13(b), 35.15, and 35.16;
- 2) Part 41, regarding accounts, records, and memoranda;
- 3) Part 101, regarding the uniform system of accounts; and
- 4) Part 141, regarding statements and reports.

XYZ requests blanket approval under Part 34 of the Commission's regulations of future issuances regarding securities and assumptions of liabilities, subject to objection by an interested party.

V. EFFECTIVE DATE

XYZ requests that the tariff be effective sixty-one days after filing.

VI. QUARTERLY FILINGS

XYZ will submit electric quarterly reports in accordance with the requirements of Order No. 2001.

VII. CONCLUSION

WHEREFORE, XYZ Small Gen, Inc. requests that the Commission issue an order accepting FERC Electric Tariff, Original Volume No. 1 and granting the waivers and authorizations requested in this Petition.

Respectfully submitted,

XYZ Small Gen, Inc.

(insert current date) By: _____

Cynthia F. Kilowatt
Vice President
XYZ Small Gen, Inc.
Suite 9000
1111 Half Street, N.W.
Washington, D.C. 20000-1111

Ph: (202) 502-XXXX

< **EXAMPLE OF TARIFF**, note that while this example may apply to most entities, it may not cover all situations.>

Availability: XYZ Small Gen, Inc. (XYZ) makes electric energy and capacity available under this tariff to any purchaser, except as prohibited below. XYZ also makes available, to any purchaser, except as prohibited below, the ancillary services listed below, and transmission rights as specified below.

- a) PJM: XYZ offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.
- b) New York: XYZ offers regulation and frequency response service, and operating reserve service (which includes 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.
- c) New England: XYZ offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.
- d) California: XYZ offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.

Reassignment of Transmission Capacity: XYZ may reassign transmission capacity that it has reserved for its own use at a price not to exceed the highest of: (a) the original transmission rate paid by XYZ; (b) the applicable Transmission provider's maximum stated firm transmission rate on file at the time of the transmission reassignment; or (c) XYZ's own opportunity costs, capped at the applicable transmission provider's cost of expansion at the time of the sale to the eligible customer.

XYZ will not recover opportunity costs in connection with the reassignments without making a separate filing under Section 205 of the Federal Power Act. Except for the price, the terms and conditions under which the reassignment is

made shall be the terms and conditions governing the original grant by the transmission provider. Transmission capacity may only be reassigned to a customer eligible to take service under the transmission provider's open access transmission tariff or other transmission rate schedules. XYZ will report the name of the assignee in its quarterly reports.

Resale of Firm Transmission Rights: XYZ may resell Firm Transmission Rights ("FTRs"), whether financial or physical in nature, that it has acquired for its own benefit at a price not to exceed any caps imposed by the Commission in its orders authorizing the issuance of such FTRs. Except for price, the terms and conditions under which the resale is made shall be the terms and conditions governing the original sale by the transmission provider. FTRs may only be resold to a customer eligible to purchase FTRs from the transmission provider. XYZ will report the names of any purchasers in its quarterly reports.

Applicability: This tariff is applicable to all sales of energy and capacity by XYZ at market-based rates.

Rates: All sales shall be made at rates established by agreement between the purchaser and XYZ.

Other Terms and Conditions: All other terms and conditions shall be established by agreement between XYZ and the purchaser.

Prohibited Sales: No sale may be made pursuant to this tariff to any affiliate of XYZ with a franchised service territory without first receiving Commission approval under section 205 of the Federal Power Act, 16 U.S.C. § 824d.

Reporting Requirement: XYZ must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or (ii) affiliation with an entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

Effective Date: This tariff is effective (insert date 61 days after filing).